

HOUSE BILL 854

L6, M1, M3

2lr2501

By: **Delegate Gilchrist**

Introduced and read first time: February 9, 2012

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Forest Conservation Act – Exception for Local Stormwater Management**
3 **Activity**

4 FOR the purpose of creating an exception to the requirements of the Forest
5 Conservation Act for stormwater management activity performed by a local
6 jurisdiction; and generally relating to exceptions to the requirements of the
7 Forest Conservation Act.

8 BY repealing and reenacting, with amendments,
9 Article – Natural Resources
10 Section 5–1602
11 Annotated Code of Maryland
12 (2005 Replacement Volume and 2011 Supplement)

13 BY repealing and reenacting, without amendments,
14 Article – Natural Resources
15 Section 5–1603(a)
16 Annotated Code of Maryland
17 (2005 Replacement Volume and 2011 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article – Natural Resources**

21 5–1602.

22 (a) Except as provided in subsection (b) of this section, this subtitle shall
23 apply to any public or private subdivision plan or application for a grading or sediment
24 control permit by any person, including a unit of State or local government on areas
25 40,000 square feet or greater.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) The provisions of this subtitle do not apply to:

2 (1) Any construction activity that is subject to § 5–103 of this title;

3 (2) Any cutting or clearing of forest in areas governed by the
4 Chesapeake Bay Critical Area Protection Law (Title 8, Subtitle 18 of this article);

5 (3) Commercial logging and timber harvesting operations, including
6 any harvesting conducted under the forest conservation and management program
7 under § 8–211 of the Tax – Property Article:

8 (i) That were completed before July 1, 1991; or

9 (ii) That were completed on or after July 1, 1991 on property
10 that is not the subject of an application for a grading permit for development within 5
11 years after the logging or harvesting operation. However, after this 5–year period, the
12 property shall be subject to this subtitle;

13 (4) Any agricultural activity that does not result in a change in land
14 use category, including agricultural support buildings and other related structures
15 built using accepted best management practices;

16 (5) The cutting or clearing of public utility rights–of–way or land for
17 electric generating stations licensed pursuant to § 7–204, § 7–205, § 7–207, or § 7–208
18 of the Public Utilities Article, provided that:

19 (i) Any required certificates of public convenience and necessity
20 have been issued in accordance with § 5–1603(f) of this subtitle; and

21 (ii) The cutting or clearing of the forest is conducted so as to
22 minimize the loss of forest;

23 (6) Any routine maintenance of public utility rights–of–way;

24 (7) Any activity conducted on a single lot of any size or a linear project
25 provided that:

26 (i) The activity does not result in the cutting, clearing, or
27 grading of more than 20,000 square feet of forest; and

28 (ii) The activity on the lot or linear project will not result in the
29 cutting, clearing, or grading of any forest that is subject to the requirements of a
30 previous forest conservation plan prepared under this subtitle;

1 (8) Any strip or deep mining of coal regulated under Title 15, Subtitle
2 5 or 6 of the Environment Article and any noncoal surface mining regulated under
3 Title 15, Subtitle 8 of the Environment Article;

4 (9) Any activity required for the purpose of constructing a dwelling
5 house intended for the use of the owner, or a child of the owner, if the activity does not
6 result in the cutting, clearing, or grading of more than 20,000 square feet of forest;

7 (10) **ANY STORMWATER MANAGEMENT ACTIVITY PERFORMED BY A**
8 **LOCAL JURISDICTION UNDER TITLE 4, SUBTITLE 2 OF THE ENVIRONMENT**
9 **ARTICLE;**

10 (11) A county that has and maintains 200,000 acres or more of its land
11 area in forest cover; and

12 ~~[(11)]~~ (12) The cutting or clearing of trees to comply with the
13 requirements of 14 C.F.R. § 77.25 relating to objects affecting navigable airspace,
14 provided that the Federal Aviation Administration has determined that the trees are a
15 hazard to aviation.

16 (c) For an application for subdivision or sediment and erosion control or
17 grading for a site with more than 50% of the net tract area governed by Title 8,
18 Subtitle 18 of this article, the Department or local authority may allow an applicant to
19 extend critical area forest protection measures instead of meeting the requirements of
20 this subtitle.

21 5-1603.

22 (a) (1) A unit of local government having planning and zoning authority
23 shall develop a local forest conservation program, consistent with the intent,
24 requirements, and standards of this subtitle.

25 (2) By April 30, 1992 all units of government with planning and
26 zoning authority shall submit a proposed forest conservation program, which meets or
27 is more stringent than the requirements and standards of this subtitle, to the
28 Department for its review and approval.

29 (3) A unit of local government which has an existing program of forest
30 conservation, or subsequently adopts such a program prior to December 31, 1992, may
31 continue to administer its program prior to approval by the Department of the local
32 forest conservation program.

33 (4) A municipality which has planning and zoning authority may, with
34 the concurrence of the county and the Department, assign its obligations under this
35 subtitle to the county.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2012.